



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D. M. Sugimura, Director

CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Application Number: 2402420
Applicant Name: Jerri Finch
Address of Proposal: 9202 21st Avenue SW

SUMMARY OF PROPOSED ACTION

Master Use Permit to change the use of a single-family residence to an institution (child-care center).

The following approval is required:

Administrative Conditional Use Permit - to allow a child care center in a single family residential zone (Section 23.44.022 Seattle Municipal Code (SMC)).

SEPA DETERMINATION: ☒ Exempt ☐ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading, or demolition, or
involving another agency with jurisdiction.

BACKGROUND DATA

Site Description

The approximately 10,624 square foot property is located near the southeast corner of SW Barton Street and 21st Avenue SW in a Single Family 5000 (SF 5000) zone. The site is relatively flat and is developed with a one-story single family residence. The site abuts an alley to the east and currently provides access to the site via an angled driveway off of SW Barton Street and the alley.

Area Development

Development in the vicinity consists primarily of single family residences in the SF 5000 zone, which extends several blocks to the north, south and west. Across the alley to the east is area zoned Multi-family Lowrise 3 (L-3). The developments on the two adjacent sites to the east consist of a 4-unit apartment and a duplex.

Proposal Description

The applicant proposes to change an existing house to a child day care center for up to 48 children. Two curbside loading and unloading spaces will be provided, and one van-accessible space will be provided onsite. Hours of operation will be from 6:00 a.m. to 6:00 p.m. Monday through Friday. The institution would accommodate children up to approximately 9 years old. The 2,200 square foot building would be used for a preschool, school-age room, infant room, toddler room, utility room and kitchen. One full bathroom will be provided along with two half-bathrooms.

Public Comment

During the public comment period which ended June 23, 2004, no comment letters were received.

ANALYSIS - ADMINISTRATIVE CONDITIONAL USE PERMIT (23.44.022 SMC)

Section 23.44.022A sets forth the types of institutions that may be permitted as conditional uses in single family zones which includes child care centers.

Applicable criteria of Section 23.44.022 (in italics) are discussed as follows:

B. Major Institutions. Existing major institutions and major institution uses within an existing Major Institution overlay district shall be permitted in accordance with the provisions of Chapter 23.69, Major Institution Overlay Districts, and the provisions of this section.

The proposed child care center is not a major institution.

C. Public schools shall be permitted as regulated in Section 23.44.017.

The proposed child care center is not a public school.

D. General Provisions.

1. *New or expanding institutions in single-family zones shall meet the development standards for uses permitted outright in Sections 23.44.008 through 23.44.016 unless modified elsewhere in this subsection or in a Major Institution master plan.*

The proposed child care is located in an existing single family residence and no expansions of the structure are proposed. Although the structure is nonconforming (2'-6" side yard), the Land Use Code allows nonconforming structures to exist if changes to the structure do not increase the nonconformity.

2. *The establishment of a child care center in a legally established institution devoted to the care or instruction of children which does not violate any condition of approval of the existing institutional use and does not require structural expansion shall not be considered a new use or an expansion of the institutional use.*

The child care center will be located in a single family residential structure, not in an existing institution.

3. *Structural work which does not increase usable floor area or seating capacity and does not exceed the height limit of the zone shall not be considered an expansion of the institution. Such work includes but is not limited to roof repair or replacement and construction of uncovered decks and porches, bay windows, dormers, and eaves.*

This application is limited to a change of use from a single family residence to a child care center. The floor area will remain the same as currently exists, seating capacity is not applicable for this use, and the proposed construction would not increase the height of the structure.

4. *Institutions seeking to establish or expand on property which is developed with residential structures may expand their campus up to a maximum of two and one-half (2 1/2) acres. An institution campus may be established or expanded beyond two and one-half (2 1/2) acres if the property proposed for the expansion is substantially vacant land.*

The proposed institution would cover a 10,688 sq. ft. site, well below the maximum size of 2.5 acres.

5. *An institution which finds that the development standards of the single-family zone classification are inadequate to its development needs may apply for reclassification to major institution status.*

With the exception of a side yard and the location of parking, the child care center complies with the development standards of the SF 5000 zone, so reclassification is not necessary.

E. *Dispersion.*

1. *The lot line of any proposed new or expanding institution, other than child care centers locating in legally established institutions, shall be located six hundred feet (600') or more from any lot line of any other institution in a residential zone....*

There are no other institutions within 600 feet of the lot lines of the proposed site.

2. *A proposed child care center serving not more than twenty-five (25) children which does not meet the criteria of subsection E1 of this section may be permitted to locate less than six hundred feet (600') from a lot line of another institution if the Director determines that, together with the nearby institution(s), the proposed child care center would not:*

- a. *Create physical scale and bulk incompatibility with the surrounding neighborhood.*

Not applicable.

- b. *Create traffic safety hazards:*

Not applicable.

- c. *Create or significantly increase identified parking shortages; or*

Not applicable.

- d. *Significantly increase noise levels to the detriment of surrounding residents.*

Not applicable.

- F. *Demolition of Residential Structures. No residential structure shall be demolished nor shall its use be changed to provide for parking. This prohibition may be waived if the demolition or change of use proposed is necessary to meet the parking requirements of this Land Use Code and if alternative locations would have greater noise, odor, light and glare or traffic impacts on surrounding property in residential use. If the demolition or change of use is proposed for required parking, the Director may consider waiver of parking requirements in order to preserve the residential structure and/or use. The waiver may include, but is not limited to, a reduction in the number of required parking spaces and a waiver of parking development standards such as location or screening.*

The existing residential structure will not be demolished nor will its use be changed to provide for parking.

- G. *Reuse of Existing Structures. Existing structures may be converted to institution use if the yard requirements for institutions are met. Existing structures which do not meet these yard requirements may be permitted to convert to institution use, provided that the Director may require additional mitigating measures to reduce impacts of the proposed use on surrounding properties.*

The existing single family residential structure does not meet the ten foot side yard setback development standard set forth for institutions for the SF 5000 zone in which it is located. No structure other than freestanding walls, fences, bulkheads or similar structures shall be closer than ten feet to the side lot line (SMC 23.44.022 K.2.). The existing street-side yard is approximately nineteen (19) feet and the other side yard is approximately 2'-6". The Director may permit yards less than ten (10) feet but not less than five (5) feet after finding that that the reduced setback will not significantly increase impacts, including but not limited to noise, odor and comparative scale, to adjacent lots zoned residential and there will be a demonstrable public benefit.

No adverse odor impacts are anticipated, and the existing structure is already of comparable scale to adjacent residentially zoned lots. As an existing structure proposed to be converted to an institution use, it may be permitted without meeting the above-indicated yard requirements, provided the Director may require additional mitigating measures to reduce impacts of the proposed use on surrounding properties. The child day care center is viewed as being a demonstrable public benefit for the neighborhood. Therefore, the ten (10) ft. setback requirement waiver for the existing structure is approved. Any future additions would need to meet institutional yard requirements or could seek modifications through a future Administrative Conditional Use as provided in the code.

Since the existing structure does not contain openings such as doors or windows within the nonconforming wall in the south side yard, and since the bulk of the existing structure is not being expanded, no additional measures to reduce impacts of the proposed use on surrounding properties is warranted.

- H. *Noise and Odors. For the purpose of reducing potential noise and odor impacts, the Director shall consider the location on the lot of the proposed institution, on-site parking, out-door recreational areas, trash and refuse storage areas, ventilating mechanisms, sports facilities and other noise-generating and odor-generating equipment, fixtures or facilities. The institution shall be designed and operated in compliance with the Noise Ordinance, Chapter 25.08.*

In order to mitigate identified noise and/or odor impacts, the Director may require measures such as landscaping, sound barriers or fences, mounding or berming, adjustments to yard or parking development standards, design modifications, setting hours of operation for facilities or other similar measures.

The applicant indicated on the application form that outdoor play time is scheduled during the day or mid-afternoon when weather permits. The application notes that children will not be allowed to play outdoors before 9:30 am. The last recess outdoors is over before 5:00 pm. The applicant has also stated that the noise created by the children playing outdoors will not exceed a span of 30 minutes. The child care center operates from 6:00 a.m. to 6:00 p.m. each day but all other activities occur indoors.

Currently, a fence of approximately 6-feet in height is located along the south and east property lines. The fence is approximately 4-feet in height along the north and west property lines. No adverse noise impacts are anticipated.

No adverse odor impacts are anticipated.

- I. Landscaping. Landscaping shall be required to integrate the institution with adjacent areas, reduce the potential for erosion or extensive stormwater runoff, reduce the coverage of the site by impervious surfaces, screen parking from adjacent residentially zoned lots or streets or to reduce the appearance of bulk of the institution.*

Landscaping plant materials shall be species compatible with surrounding flora. Existing plant material may be required to be retained. Maintenance of landscaped areas shall be the continuing responsibility of the owner.

The site is currently landscaped with a lawn and shrubbery. The landscaping is compatible with the residential neighborhood and maintenance of the existing landscaping will be required. The applicant will also be installing playground equipment and play bark in the northeast portion of the site.

- J. Light and Glare. Exterior lighting shall be shielded or directed away from adjacent residentially zoned lots. The Director may also require that the area and intensity of illumination, the location or angle of illumination be limited. Nonreflective surfaces shall be used to help reduce glare.*

Exterior lighting will consist of an existing porch light. Since the property is on a corner, the streetlights will provide adequate lighting. The hours of operation are 6:00 am to 6:00 pm, most of which occurs during the daylight hours. No adverse impacts are anticipated.

- K. Bulk and Siting.*

- 1. Lot area. If the proposed site is more than one (1) acre in size, the Director may require the following and similar development standards:*

The site is less than one acre in size so these criteria are not applicable to the child care center.

2. *Yards. Yards of institutions shall be as required for uses permitted outright in Section 23.44.008, provided that no structure other than freestanding walls, fences, bulkheads or similar structures shall be closer than ten feet (10') to the side lot line. The Director may permit yards less than ten feet (10') but not less than five feet (5') after finding that the reduced setback will not significantly increase impacts, including but not limited to noise, odor and comparative scale, to adjacent lots zoned residential and there will be a demonstrable public benefit.*

Both yards are less than the ten feet (10') required in Section 23.44.022 K.2. Locating the outdoor play area in the street side yard and northeast portion of the rear yard along the alley should mitigate any significant noise impacts. No adverse odor impacts are anticipated, and the existing structure is already of comparative scale to adjacent residentially zoned lots. As an existing structure proposed to be converted to an institution use, it may be permitted without meeting these yard requirements, provided the Director require additional mitigating measures to reduce impacts of the proposed use on surrounding properties. The child day care center is viewed as being a demonstrable public benefit for the neighborhood, as it will provide child care service in a location accessible by the surrounding neighborhood and mass transit.

3. *Institutions Located on Lots in More Than One (1) Zone Classification.*

This criterion is not applicable because the site is located in only one zone, SF5000.

4. *Height Limit. A religious symbol and that portion of the roof supporting it, including but not limited to a belfry or a spire, may extend an additional twenty-five feet (25') above the height limit.*

A religious symbol is not proposed above the existing roof.

5. *Facade Scale. If any facade of a new or expanding institution exceeds thirty feet (30') in length, the Director may require that facades adjacent to the street or a residentially zoned lot be developed with design features intended to minimize the appearance of bulk. Design features which may be required include, but are not limited to, modulation, architectural features, landscaping or increased yards.*

The facades at the front and the rear are approximately 70 ft. in length. The side facades are approximately 66 ft. in length with no modulation. As a reuse of an existing structure, all existing facades are compatible with other houses in the neighborhood; therefore no mitigation of bulk will be necessary.

L. Parking and Loading Berth Requirements.

1. *Quantity and Location of Off-street Parking.*

- a. *Use of transportation modes such as public transit, vanpools, carpools and bicycles to reduce the use of single-occupancy vehicles shall be encouraged.*

The applicant/owner indicates that the day care encourages its employees and patrons to carpool and use public transportation when possible. Many families live within walking distance as well. Public transportation is within 2 blocks of the site.

- b. *Parking and loading shall be required as provided in Section 23.54.015.*

The applicant has indicated that there will be six employees at the day care center. For a child care center, the Land Use Code requires one space for each 10 children or each staff member, whichever is greater. Thus, six off-street parking spaces would be required. However, one (1) van-accessible parking space will be provided onsite.

The applicant submitted a parking study demonstrating the on-street parking availability during the peak periods of operation for the child-care center. The parking study showed enough availability in the vicinity of the subject site to accommodate the five (5) additional staff parking spaces.

- c. *The Director may modify the parking and loading requirements of Section 23.54.015, Required parking, and the requirements of Section 23.44.016, Parking location and access on a case-by-case basis using the information contained in the transportation plan prepared pursuant to subsection M of this section. The modification shall be based on adopted City policies and shall:*
 - i. *Provide a demonstrable public benefit such as, but not limited to, reduction of traffic on residential streets, preservation of residential structures, and reduction of noise, odor, light and glare; and*
 - ii. *Not cause undue traffic through residential streets nor create a serious safety hazard.*

Most of the parking for this project will be provided off-site. However, this proposal will not add undue traffic through the residential streets nor create a serious safety hazard. To further meet the above-identified objectives, it shall be required that the parents use the street rather than the alley to pick up/drop off their children. This is to avoid blocking the alley and to minimize noise and disturbance to nearby residents. Additionally, the use will provide the public benefit of a conveniently located child care center, while preserving an existing single family structure.

The van-accessible space is proposed in the street side yard, which is not allowed by current code. However, the applicant can request a modification to this requirement on a case-by-case basis. In order to maximize the size of the play area in the rear yard and to reduce safety concerns for the children playing in the rear yard, the applicant has proposed to provide the van space in the side yard as opposed to the rear yard. Providing a van space or other parking in the rear yard could increase the potential for light and glare impacts related to vehicle headlights on the adjacent residents.

2. *Parking Design. Parking access and parking shall be designed as provided in Design Standards for Access and Off-street Parking, Chapter 23.54.*

The applicant's is providing one (1) parking space along the street-side yard which will utilize the existing curbcut on SW Barton Street and meet the dimensional requirements of a van-accessible space.

3. *Loading Berths. The quantity and design of loading berths shall be as provided in Design Standards for Access and Off-street Parking, Chapter 23.54.*

Two load/unload space(s) will be provided as required by the Land Use Code. In addition, on-street parking in the vicinity is below capacity and the number of staff at the child care center is not expected to substantially increase demand for on-street parking. Parents using the load/unload zone to drop off or pick up their children will be transitory and staggered, thus it is not anticipated to usurp needed on-street parking for more than a few minutes. For these reasons, no additional mitigation of parking impacts will be required.

- M. *Transportation Plan. A transportation plan shall be required for proposed new institutions and for those institutions proposing expansions which are larger than four thousand (4,000) square feet of structure area and/or are required to provide an additional twenty (20) or more parking spaces.*

The proposed child care center is less than 4,000 sq. ft. However, since a modification to parking requirements is proposed, a transportation plan has been provided with the necessary information.

- N. *Development Standards for Existing Institutes for Advanced Study.*

The child care center is not an institute for advanced study.

Administrative Conditional Use General Provisions (SMC 23.44.018)

- A. *Only those conditional uses identified in this subchapter as conditional uses may be authorized as conditional uses in single family zones. The Master Use Permit process set forth in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, shall be used to authorize conditional uses.*

The Department recognizes the public benefit achieved by accommodating institutions such as child care centers in single family zones. The Land Use Code, as an enunciation of City policy, allows these institutions in single family zones, but establishes the Administrative Conditional Use process as the mechanism for screening and mitigating impacts related to the uses. The proposed facility, as conditioned by the Department, is identified as a conditional use which can be authorized in a single family zone.

B. Unless otherwise specified in this subchapter, conditional uses shall meet the development standards for uses permitted outright in Sections 23.44.006 through 23.44.016.

The subject proposal meets all of the development standards or allowable exceptions for uses permitted outright.

C. A conditional use may be approved, conditioned or denied based on a determination of whether the proposed use meets the criteria for establishing a specific conditional use and whether the use will be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.

The proposal, as discussed under the specific criteria (SMC 23.44.022), meets the criteria for establishing a specific conditional use and has been conditioned such that the potential negative impacts are substantially mitigated.

D. In authorizing a conditional use, the Director or Council may mitigate adverse negative impacts by imposing requirements or conditions deemed necessary for the protection of other properties in the zone or vicinity in which the property is located.

The conditions which mitigate the potential adverse impacts of this use will require maintenance of the landscaping, trash receptacles and directing and shielding exterior lighting from surrounding residential properties. These conditions combine to provide reasonable mitigation for the proposed child care center and are authorized by this provision.

Conclusion

Based on the foregoing analysis and review, the determination is that the proposed action satisfies all the relevant requirements of 23.44.018 and 23.44.022 governing administrative conditional uses in single family zones. It is the Director's determination that the proposal, as conditioned, would not be materially detrimental to the public welfare nor injurious to property in the zone or vicinity in which the child care center will be located, and should be granted.

DECISION - ADMINISTRATIVE CONDITIONAL USE PERMIT

The application for an administrative conditional use is **CONDITIONALLY GRANTED.**

CONDITIONS - ADMINISTRATIVE CONDITIONAL USE PERMIT

Permanent for the Life of the Project

The owners and/or responsible party(s) shall:

1. Maintain the landscaping per approved plan.
2. Shield and direct exterior lighting away from adjacent residentially zoned lots.
3. In consultation with the Seattle Department of Transportation, the existing load/unload zone should be extended along 21st Avenue SW, and delineated with on-street striping to distinguish the availability of two stalls.

Signature: _____ (signature on file) Date: October 14, 2004

Bryan Stevens, Land Use Planner
Department of Planning and Development
Land Use Services

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